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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,716	09/18/2003	Stefan Karlinger	71129	4410
23872	7590	11/22/2004		
MCGLEW & TUTTLE, PC 1 SCARBOROUGH STATION PLAZA SCARBOROUGH, NY 10510-0827			EXAMINER DUNWOODY, AARON M	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/664,716	Applicant(s) KARLINGER, STEFAN	
	Examiner Aaron M Dunwoody	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/29/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 3934902, McNamee in view of FR 1286787 A.

In regards to claims 1 and 17, McNamee discloses a device (10) for holding a flexible hose (12), having at least one holding area for an at least axial holding of the flexible hose; and at least one one-sided support area surrounding the flexible hose and extending towards a free end of the flexible hose. McNamee does not disclose the support area having a trumpet-shaped extension extending continuously and uniformly towards the free end. FR 1286787 A teaches a support area having a trumpet-shaped extension (12) extending continuously and uniformly towards the free end. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the support area with a trumpet-shaped extension extending continuously and uniformly towards the free end, since a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

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In regards to claims 2 and 18, McNamee discloses the holding area having inwardly directed annular ribs (32, 36).

In regards to claims 3 and 19, McNamee discloses the holding area further comprising an application area (28) for applying the device to a holding part (50).

In regards to claims 4 and 20, McNamee discloses the holding part being constructed as a fixing clamp or clip.

Note, the holding part is not part of the claimed invention.

In regards to claim 5, McNamee discloses the section application having an outer annular groove.

In regards to claims 6 and 21, McNamee discloses an inwardly directed lug (threads of 50) of the holding part engages the annular groove.

In regards to claim 7, McNamee discloses a construction with at least two partial shells (half- shells) (22).

In regards to claim 8, McNamee discloses the partial shells being screwed together (when inserted into 50).

Claims 1, 3-7, 9, 17 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 3498642, Berger.

In regards to claims 1 and 17, Berger discloses a device (300) for holding a flexible hose (15), having at least one holding area for an at least axial holding of the flexible hose; and at least one one-sided support area surrounding the flexible hose and extending towards a free end of the flexible hose. Berger does not disclose the support

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area having a trumpet-shaped extension extending continuously and uniformly towards the free end. FR 1286787 A teaches a support area having a trumpet-shaped extension (12) extending continuously and uniformly towards the free end. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the support area with a trumpet-shaped extension extending continuously and uniformly towards the free end, since a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

In regards to claims 3 and 19, Berger discloses an application area (34) for applying the device to a holding part.

In regards to claims 4 and 20, Berger discloses the holding part being constructed as a fixing clamp or clip.

Note, the holding part is not part of the claimed invention.

In regards to claim 5, Berger discloses the section application having an outer annular groove (between 34 and 33).

In regards to claims 6 and 21, Berger discloses an inwardly directed lug (see Figure 1) of the holding part engaging the annular groove.

In regards to claim 7, Berger discloses a construction with at least two partial shells (half- shells) (31, 32).

In regards to claim 9, Berger discloses the partial shells being interconnected by snap action devices.

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Claims 1-7, 9-11, 15 and 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 4907830, Sasa et al.

In regards to claims 1 and 17, Sasa et al disclose a device (4) for holding a flexible hose (6), having at least one holding area for an at least axial holding of the flexible hose; and at least one one-sided support area surrounding the flexible hose and extending towards a free end of the flexible hose. Sasa et al do not disclose the support area having a trumpet-shaped extension extending continuously and uniformly towards the free end. FR 1286787 A teaches a support area having a trumpet-shaped extension (12) extending continuously and uniformly towards the free end. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the support area with a trumpet-shaped extension extending continuously and uniformly towards the free end, since a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

In regards to claims 2 and 18, Sasa et al disclose having inwardly directed annular ribs (5).

In regards to claims 3 and 19, Sasa et al disclose an application area (11) for applying the device to a holding part (3).

In regards to claims 4 and 20, Sasa et al disclose the holding part being constructed as a fixing clamp or clip.

Note, the holding part is not part of the claimed invention.

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In regards to claim 5, Sasa et al disclose the section application having an outer annular groove.

In regards to claims 6 and 21, Sasa et al disclose an inwardly directed lug of the holding part engaging the annular groove.

In regards to claim 7, Sasa et al disclose a construction with at least two partial shells (half- shells).

In regards to claim 9, Sasa et al disclose the partial shells being interconnected by snap action devices (12).

In regards to claim 10, Sasa et al disclose the partial shells being held together by a closing ring (12).

In regards to claim 11, Sasa et al disclose the closing ring being constructed in one piece.

In regards to claim 15, Sasa et al disclose a cylindrical shoulder for the non-positive reception of the closing ring in a radial and circumferential direction.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasa et al in view of FR 1286787 A, and in further view of US patents 2547263, Heimann et al, and 3464307, Wurzel.

In regards to claim 12, Sasa et al in view of FR 1296787 A disclose the claimed invention except for the closing ring being formed by several partial rings. Heimann et al and Wurzel teach a closing ring being formed by several partial rings. As Heimann et al and Wurzel relates to retaining rings, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the closing ring

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as several partial rings, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

In regards to claim 13, Heimann et al and Wurzel further disclose the partial rings of the closing ring being connectable by snap constructions by snapping in perpendicular to the axis of symmetry.

In regards to claim 14, Heimann et al and Wurzel further disclose rigid, complimentary shapes, engaging behind in the closed position and located on end faces of the partial rings of the closing ring and axial connectability of the shapes and therefore the partial rings.

Response to Arguments

Applicant's arguments with respect to claims above have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 6/29/2004 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is 703-306-3436. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 703-306-5771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Aaron M Dunwoody
Examiner
Art Unit 3679

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